

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****49 CFR Part 71****[OST Docket No. OST-99-5843] — |****RIN 2105-AC80****Standard Time Zone Boundary in the State of Kentucky: Proposed Relocation****AGENCY:** Office of the Secretary, DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: At the request of the Wayne County, Kentucky, Fiscal Court, DOT proposes to relocate the boundary between eastern time and central time in the State of Kentucky. DOT proposes to relocate the boundary in order to move Wayne County from the Central Time Zone to the Eastern Time Zone.

DATES: Comments should be received by August 20, 1999 to be assured of consideration. Comments received after that date will be considered to the extent practicable. If the time zone boundary is changed as a result of this rulemaking, the effective date would be 2:00 a.m. CDT Sunday, October 31, 1999.

ADDRESSES: You may submit your comments and related material by only one of the following methods:

(1) By mail to the Docket Management Facility (OST-1999-), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By hand delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

For questions on viewing or submitting material to the docket, call

Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

Public Hearing

A public hearing will be chaired by a representative of DOT at the Fiscal Courtroom, Wayne County Courthouse, 109 North Main Street, Monticello, Kentucky, on Thursday, June 24, 1999, at 7:00 p.m. The hearing will be informal and will be tape recorded for inclusion in the docket. Persons who desire to express opinions or ask questions at the hearings do not have to sign up in advance or give any prior notification. To the greatest extent practicable, the DOT representative will provide an opportunity to speak for all those wishing to do so.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9315.

SUPPLEMENTARY INFORMATION:**Background**

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260-64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce."

Petition for Rulemaking

On April 22, 1999, the Wayne County, Kentucky, Fiscal Court (the highest governmental body in the county) formally petitioned the Department of Transportation to change its time zone from central to eastern. The Resolution stated the following in support of the request:

I. Supplies for businesses are shipped into Wayne County mostly from the Eastern Time Zone. (Somerset, Lexington, Knoxville). United Parcel Service, FedEx and other carrier deliveries come from terminals in the Eastern Time Zone.

II. The major television stations that consider Wayne County as part of their coverage area are all located in the Eastern Time Zone. (Lexington, Knoxville) The local cable that serves Wayne County has no major local affiliates which are located in the Central Time Zone.

III. All daily newspapers that serve Wayne County are located in the Eastern Time Zone. Those being the Louisville Courier-Journal, Lexington Herald-Leader and the

Commonwealth Journal which comes from Somerset, Ky.

IV. The citizens of Wayne County obtain bus transportation in Corbin, Ky, which is located in the Eastern Time Zone. The closest rail service for public transportation is also located in the Eastern Time Zone.

V. The closest commercial airport is Lexington, Ky., located in the Eastern Time Zone.

VI. Approximately 950 of the local workforce works outside Wayne County. It is estimated that 700 of those work in the Eastern Time Zone. This represents manufacturing jobs and is based on the 1996 manufacturing statistics.

VII. Approximately 90% +/- of Wayne County residents that attend educational institutions outside Wayne County attend schools that are located in the Eastern Time Zone. If you look at only the students that commute for education purposes, the figure would be higher. Wayne County needs desperately to improve our educational attainment level of our residents. Moving to the Eastern Time zone would align us with the resources to make this improvement more feasible.

VIII. Most interscholastic activities (90% or more) are with schools from the Eastern Time Zone. Most all district and regional competitions are held in areas that are in the Eastern Time Zone.

IX. Tourism plays an important role in our economy and the major portion of that comes from people located in the Eastern Time Zone. Lake Cumberland is a major tourism drawing card for our county. A very large portion (80%) of the tourists that come to this area come from the Eastern Time Zone.

X. Major hospitals that serve Wayne County are located in the Eastern Time Zone. It is estimated that 99% of all Wayne County citizens that are referred to obtain other medical services, that are not available locally, are referred to the Eastern Time Zone. (Somerset, Lexington, Louisville)

XI. The State Police Headquarters that serves our area is located in the Eastern Time Zone.

XII. Wayne County is the only county in the Fifth Congressional District that is in the Central Time Zone.

XIII. Looking at two long term factors that could significantly impact Wayne County in the future (the development of the Big South Fork National River and Recreation Area and the construction of I-66) would require Wayne County to be in the Eastern Time Zone to fully align with these two developments.

XIV. Most all of our industry, if not all, that is not headquartered locally has their main company headquarters in the Eastern Time Zone.

XV. Wayne County residents that go outside the county for "shopping" purposes, goes to the Eastern Time Zone (Somerset/Lexington).

XVI. The closest major gateway to our area is I-75. This attaches Wayne County, Kentucky significantly to the Eastern Time Zone."

Under DOT procedures to change a time zone boundary, the Department will generally begin a rulemaking

proceeding if the highest elected officials in the area make a *prima facie* case for the proposed change. DOT has determined that the Resolution of the Wayne County Fiscal Court makes a *prima facie* case that warrants opening a proceeding to determine whether the change should be made. Consequently, in this notice of proposed rulemaking, DOT is proposing to make the requested change and is inviting public comment.

Although the Wayne County Fiscal Court has submitted sufficient information to begin the rulemaking process, the decision whether actually to make the change will be based upon information received at the hearing or submitted in writing to the docket. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal. We are not bound either to accept or reject the proposal of the Wayne County Fiscal Court at the present time in the proceeding. The Department here issues no opinion on the merits of the County's request. Our decision will be made on the basis of information developed during the rulemaking proceeding.

Impact on observance of Daylight Saving Time

This time zone proposal does not directly affect the observance of daylight saving time. Under the Uniform Time Act of 1966, as amended, the standard time of each time zone in the United States is advanced one hour from 2:00 a.m. on the first Sunday in April until 2:00 a.m. on the last Sunday in October, except in any State that has, by law, exempted itself from this observance.

Regulatory Analysis & Notices

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The rule primarily affects the convenience of individuals in scheduling activities. By itself, it imposes no direct costs. Its impact is localized in nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This proposal, if adopted, would primarily affect individuals and their scheduling of activities. Although it would effect some small businesses, not-for-profits and, perhaps, several small governmental jurisdictions, it would not be a substantial number. In addition, the change should have little, if any, economic impact.

Therefore, the Office of the Secretary certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Joanne Petrie at (202) 366-9315.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

We have analyzed this proposed rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) and E.O.

12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

This rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, an environmental impact statement is not required.

List of Subjects in 49 CFR Part 71

Time.

PART 71—[AMENDED]

For the reasons discussed above, the Office of the Secretary proposes to amend Title 49 Part 71 to read as follows:

1. The authority citation for Part 71 would continue to read:

Authority: Secs. 1–4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2–7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97–449, 15 U.S.C. 260–267; Pub. L. 99–359; 49 CFR 159(a), unless otherwise noted.

2. Paragraph (c) of § 71.5, *Boundary line between eastern and central zones*, would be revised to read as follows:

§ 71.5, Boundary line between eastern and central zones.

(c) Kentucky. From the junction of the east line of Spencer County, Ind., with the Indiana-Kentucky boundary easterly along that boundary to the west line of Meade County, Ky.; thence southeasterly and southwesterly along the west lines of Meade and Hardin Counties to the southwest corner of Hardin County; thence along the south lines of Hardin and Larue Counties to the northwest corner of Taylor County; thence southeasterly along the west (southwest) line of Taylor County and northeasterly along the east (south-east) line of Taylor County to the west line of Casey County; and thence southerly along the west and south lines of Casey and Pulaski Counties to the intersection with the western boundary of Wayne County; and then south along the western boundary of Wayne County to the Kentucky-Tennessee boundary.

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Issued this 11th day of June 1999, at Washington, DC.

Rosalind Knapp,

Acting General Counsel.

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